

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAWN TORRES,

Plaintiff,

-against-

ORDER

05 CV 6029 (DRH) (ARL)

JO ANNE BARNHART, COMMISSIONER
OF SOCIAL SECURITY,

Defendant.

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HURLEY, Senior District Judge:

Dawn Torres (“plaintiff”) commenced this action against Jo Anne Barnhart, Commissioner of Social Security (“defendant”) seeking Social Security benefits, which were initially denied by an Administrative Law Judge (“ALJ”). Ultimately, the parties agreed to remand the case back to the Social Security Administration for a new determination and filed a stipulation to remand the case for further administrative proceedings on June 1, 2006. On remand, the ALJ approved plaintiff’s application for disability benefits. On March 7, 2009, Jeffrey Delott (“Delott”), plaintiff’s attorney, made a motion for attorney’s fees for his services rendered before the District Court pursuant to 42 U.S.C. § 406(b), which permits a court to award a reasonable attorney’s fee “[w]henver a court renders a judgment favorable to a [Social Security] claimant.”

On March 11, 2009, this motion was referred to United States Magistrate Judge Arlene R. Lindsay to issue a Report and Recommendation as to whether Delott was entitled to attorney’s fees. On June 8, 2009, Judge Lindsay issued a Report and Recommendation, which recommended that Delott’s motion for attorney’s fees be denied because he failed to file his motion within a reasonable time. *See* Report and Recommendation of Magistrate Judge

Lindsay, dated June 8, 2009, at 3-4, DE 12. More than fourteen¹ days have elapsed since service of the Report and Recommendation and no party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the June 8, 2009 Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Therefore, the Court adopts the Report and Recommendation of Judge Lindsay as is set forth therein. Accordingly, the Court hereby directs that Delott's motion for attorney's fees be denied, and the Clerk of the Court is directed to enter judgment accordingly.

SO ORDERED.

Dated: Central Islip, New York
April 9, 2014

_____/s/
Denis R. Hurley
United States District Judge

¹ At the time Judge Lindsay issued the Report and Recommendation, Federal Rule of Civil Procedure 72 mandated that any party wishing to file an objection to a Report and Recommendation should file its objection within 10 days of service of the Report and Recommendation.